

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DIONNY ESPINAL, on behalf of himself,
individually, and on behalf of all others
similarly-situated,

Plaintiff,

-against-

VICTOR'S CAFÉ 52nd STREET, INC., and
SONIA ZALDIVAR, individually, and
CHRISTIAN BETERE, individually,

Defendants.

Docket No.:
1:16-cv-8057-VEC

**NOTICE OF PLAINTIFF'S MOTION FOR CONDITIONAL CERTIFICATION AND
NOTICE PURSUANT TO 29 U.S.C. § 216(b)**

PLEASE TAKE NOTICE THAT Plaintiff Dionny Espinal will move this Court, before the Honorable Valerie E. Caproni, on a date and time to be determined by the Court, pursuant to 29 U.S.C. § 216(b), for an Order:

- (1) Conditionally certifying this case as a collective action;
- (2) Requiring Defendants, within fourteen days of the Court's Order, to produce a computer-readable data file containing the names, last known mailing addresses, last known home and mobile telephone numbers, last known email addresses, work locations, and dates of employment, of all potential collective action members who worked for Defendants at any point from October 14, 2010 to the present;
- (3) Permitting Plaintiff to disseminate notice of this action, in the form attached to the Minkoff Declaration as Exhibit 5, in English and Spanish, via regular mail, text message and e-mail;
- (4) Requiring Defendants to post the Notice in English and Spanish in a place where employees are likely to view it in the 52nd Street location owned

and/or operated by Defendants, and provide an affidavit attesting to their compliance and swearing that the notice will remain posted during the entire opt-in period;

- (5) Permitting Plaintiff to send the proposed Reminder Notice in both English and Spanish to the potential collective members thirty days after sending the initial Notice; and
- (6) That the FLSA statute of limitations is tolled from the date of filing of this motion, until the deadline that the Court approves for potential opt-in plaintiffs to join this action (after the Court permits Plaintiff to send notice to those potential opt-in plaintiffs).

A memorandum of law and the Declarations of Michael R. Minkoff, Esq., Named Plaintiff Dionny Espinal, and opt-in Plaintiff Jose Geyder Ferero Olaya, together with Exhibits, support this motion and are filed contemporaneously herewith.

In accordance with the Court's Local Civil Rule 6.1, Defendants VICTOR'S CAFÉ 52nd STREET, INC., SONIA ZALDIVAR, and CHRISTIAN BETERE must serve any opposition papers on or before January 19, 2017; Plaintiff must serve any reply papers on or before January 26, 2017.

Dated: New York, New York
January 5, 2017

Respectfully submitted,

BORRELLI & ASSOCIATES, P.L.L.C.

Attorneys for Plaintiffs

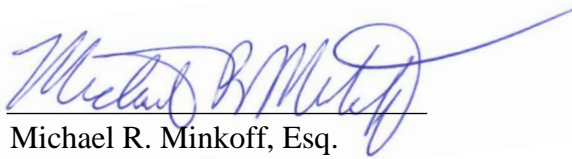
655 Third Avenue, Suite 1821

New York, New York 10017

Tel. (212) 679-5000

Fax. (212) 679-5005

By:



Michael R. Minkoff, Esq.